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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/558,894	04/27/2000	Robert Joseph Statz	AD6731-US-NA	1574

23906 7590 01/03/2003

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EXAMINER

BUTTNER, DAVID J

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 01/03/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/558,894

Applicant(s)

STATZ, ROBERT JOSEPH

Examiner

David Buttner

Art Unit

1712

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Describing the cation amount as being able “to neutralize about 100% of the acid” and “excess of the amount that is required to neutralize all of the acid” is inconsistent. Is overneutralization required or not?

Claims 1-6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Sullivan '855 Patent in view of Sullivan '760.

Sullivan discloses ionomer golf ball covers. The ionomers are based on E/acrylate/acid terpolymer with about 10-100% neutralization (col. 2, line 36, table 4). Metal stearates can be included (col. 5, line 20). Sullivan (col. 5, line 19) directs the reader to US 5306760 for a more detailed explanation of the metal stearates and other processing acids.

The '760 reference teaches metal stearates, metal laureates etc in amounts of 25-75 pph (col. 6, lines 8-14) are suitable additives to ionomer golf ball covers.

These fatty acid salts solvate the ionomer, allowing for easier flow (col. 5, line 65).

Sullivan's “about 100%” neutralization suggest amounts slightly above 100% (In re Ayers 69 USPQ 109). Claim 10 is a product by process claim and is properly rejected even though the process may be allowable (MPEP 2113).

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Sullivan '855 Patent in view of Sullivan '760 in further view of Bush '578 or Rees '134.

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The rejection based on Sullivan produces ionomer/metal stearate blend by combining pre-neutralized ionomer and pre-neutralized stearic acid rather than post neutralizing a ethylene/acid + stearic acid blend.

Such a technique is known as shown by Rees (example 64) and Bush (example 1; table 1). The same final product would result whether preneutralized or post neutralized. It would have been obvious to prepare Sullivan's composition with a post neutralization.

Applicant's arguments filed 10/21/02 have been fully considered but they are not persuasive.

Applicant argues rejections based on Sullivan '855 are improper as Sullivan requires his cover to be more than 90% acrylate ester ionomer. This would not permit high amounts of fatty acid.

This is not convincing. A close reading of Sullivan indicates "the ionomer has more than 90% of an acrylate ionomer" (col. 2, lines 15, 56; col. 3, line 10). In other words, of the ionomers present, at least 90% must be the acrylate containing version. This is more clearly stated at column 5 lines 35-39. The amounts of fillers, metal stearates etc is not limited to under 10%. Only non acrylate containing ionomers (e.g. salts of ethylene/acrylic acid copolymer) are limited to under 10%.

Applicant states claim 7 has been amended to clearly require an excess of cation.

The problem is that "to neutralize 100% of the acid" is still present. What effect does that phrase have on the claim?

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Assuming claim 7 requires an overneutralization, the Board of Appeals would be unlikely to support a rejection based on Sullivan '855 requiring both a process change (a post neutralization) and an overneutralization (>100%).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is 703-308-2403. The examiner can normally be reached on Weekdays from 10:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

D. Buttner/mn  
January 2, 2003

DAVID J. BUTTNER  
PRIMARY EXAMINER

